

No. 01-15-00617-CV

IN THE COURT OF APPEALS
FIRST COURT OF APPEALS DISTRICT
HOUSTON, TEXAS

BOB DEUELL,
Appellant,

FILED IN
1st COURT OF APPEALS
HOUSTON, TEXAS
3/3/2016 4:26:39 PM
CHRISTOPHER A. PRINE
Clerk

v.

TEXAS RIGHT TO LIFE COMMITTEE, INC.,
Appellee

On Appeal from the 152nd Judicial District Court
Of Harris County, Texas
Trial Court Cause No. 2014-32179
Honorable Robert Schaffer, Presiding Judge

APPELLANT'S OPPOSED MOTION TO RECUSE

DENTON NAVARRO ROCHA BERNAL HYDE & ZECH, P.C.
2500 W. William Cannon Drive, Suite 609
Austin, Texas 78745-5292
(512) 279-6431
(512) 279-6438 (Facsimile)
George E. Hyde
State Bar No. 45006157
Scott M. Tschirhart
State Bar No. 24013655

ATTORNEYS FOR APPELLANT

MAY IT PLEASE THE COURT:

NOW COMES APPELLANT, Bob Deuell (hereinafter “Appellant” and/or “Deuell”) and files this motion to recuse pursuant to Rules 18a and 18b of the Texas Rules of Civil Procedure, Rule 16 of the Texas Rules of Appellate Procedure and Canons 1,2,3, and 4 of the Code of Judicial Conduct. Appellant respectfully seeks the recusal of the Honorable Justice Michael C. Massengale from the above-styled action.

A. Introduction

1. Appellant is Bob Deuell. Appellee is the Texas Right to Life Committee, Inc.
2. The parties have consulted and are not agreed to this motion.
3. This matter is currently set for oral arguments on March 23, 2016 at 1:30 p.m. before a panel consisting of Justice Jennings, Justice Huddle and Justice Massengale.
4. This Motion is brought after the vote count on the recent Republican Primary election so as not to make this matter an issue in the election.
5. This motion is based on information made known to Appellant during the week leading up to the Republican Primary election held on March 1, 2016, and is therefore timely pursuant to Rule 16.3 of the Texas Rules of Appellate Procedure.
6. The information made known to Appellant concerns Justice Massengale and his connections with Texas Right to Life Committee, Inc. which includes campaign contributions and social media contacts from related parties.

7. According to the 8 day out Campaign Finance Report filed by Massengale for Texas Supreme Court: Empower Texans contributed \$25,000.00 on February 16, 2016; Elizabeth Graham contributed \$1,000.00 on February 8, 2016 and Texas Right to Life contributed \$5,000.00 on February 15, 2016. All of these contributors are closely related to Appellee.

8. According to the January 2016 Semi-annual Campaign Finance Report for Massengale for Texas Supreme Court: Marty Beirne (Beirne Maynard & Parsons contributed \$1,000.00 on October 23, 2015 and Tim Dunn contributed \$5,000.00 on December 14, 2015. These contributors are closely related to Appellee.

9. Justice Massengale's 2010 and 2011 Campaign Finance Reports show contributions from Beirne Maynard & Parsons and Empower Texans. These contributors are closely related to Appellee.

10. Justice Massengale's Twitter feed shows that he follows Joe Nixon, Trey Trainer, Michael Q. Sullivan, Empower Texans, Texas Right to Life and several of their employees on Twitter.

11. Appellant's motion is based on this evidence, discussed in greater detail below, that has caused and will cause Justice Massengale's impartiality in this case to be reasonably questioned.

B. Argument & Authorities

12. The due-process clauses of both the Texas and the United States Constitutions guarantee a party an impartial and disinterested tribunal in civil cases. *See Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980); *Metzger v. Sebeck*, 892 S.W. 2d 20, 37 (Tex. App.—Houston [1st Dist.] 1994, writ denied).

13. The legal standard for motions to recuse is set out in Rule 18b of the Texas Rules of Civil Procedure, and particularly Rule 18b(1) and (2), which provide in part that “a judge must recuse himself in any proceeding in which: (1) the judge’s impartiality might reasonably be questioned ... [or] (2) the judge has a persona bias or prejudice concerning the subject matter or a party.” Tex. R. Civ. P. 18b(1) and (2). “The grounds for recusal of an appellate court justice or judge are the same as those provided in the Rules of Civil Procedure.” Tex. R. App. P. 16.2.

14. The issue of whether a judge’s “impartiality might reasonably be questioned,” is not whether the judge is actually biased. As the United States Supreme Court ruled in a recusal case on which the basis of recusal was campaign contributions:

One must also take into account the judicial reforms the States have implemented to eliminate even the appearance of partiality. Almost every State—West Virginia included—has adopted the American Bar Association’s objective standard: “A judge shall avoid impropriety and the appearance of impropriety.” The ABA Model Code test for the appearance of impropriety is “whether the conduct would create in reasonable minds a perception that the judge’s ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.”

Caperton v. Massey Coal, 556, U.S. 868, 888 (2009)(citations omitted).

15. Texas has also adopted an objective test for impropriety. See Tex. Code Jud. Conduct Canon 2 (entitled “Avoiding Impropriety and the Appearance of Impropriety in All of the Judge’s Activities”); see *Rogers v. Bradley*, 909 S.W.2d 872, 874 (Tex. 1995)(stating the rule requiring judges to recuse themselves in any proceeding in which Rule 18b of the Texas Rules of Civil Procedure requires recusal “in any proceeding in which . . . [the judge’s] impartiality might reasonably be questioned”). Expanding on Texas’ objective standard, Justice Grammage’s declaration of recusal in *Rogers* stated:

The rule does not require that the judge must have engaged in any biased or prejudicial conduct. It does require the judge to recuse if “his impartiality might reasonably be questioned,” regardless of the source or circumstances giving rise to the question of impartiality and even though the source and circumstances may be beyond the judge’s volition or control.

Rogers, 909 S.W.2d at 874.

16. The Texas intermediate courts of appeals have applied the same objective standard:

The standard for recusal is clear. When the party moving for recusal relies on bias to claim the trial judge should be recused, the party filing the motion to recuse must show that a reasonable person, with knowledge of the circumstances, would harbor doubts as to the impartiality of the trial judge, and that the bias is of such nature and extent that allowing the judge to serve would deny the movant’s right to receive due process of law.

In re Commitment of Winkle, 434 S.W.3d 300, 311 (Tex. App.—Beaumont 2014, pet denied); *see also Humitech Dev. Corp. v. Perlman*, 424 S.W.3d 782, 797 (Tex. App.—Dallas, 2014, no pet)(“The test for recusal under rule [18b(b)] is ‘whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge’s conduct, would have a reasonable doubt that the judge is actually impartial.’”)(quoting *Hansen v. J.P. Morgan Chase Bank, NA*, 346 S.W.3d 769, 776 (Tex. App.—Dallas 2011, not pet.)); *Duffey v. State*, 428 S.W.3d 319, 325 (Tex. App.—Texarkana 2014, no pet.)(same).

17. The attached evidence shows that Justice Massengale has been the recipient of campaign funds from parties closely related to Appellee. According to the 8 day out Campaign Finance Report filed by Massengale for Texas Supreme Court: Empower Texans contributed \$25,000.00 on February 16, 2016; Elizabeth Graham contributed \$1,000.00 on February 8, 2016 and Texas Right to Life contributed \$5,000.00 on February 15, 2016. *See Exhibit A.* [unrelated matter omitted for brevity]. According to the January 2016 Semi-annual Campaign Finance Report for Massengale for Texas Supreme Court: Marty Beirne (Beirne Maynard & Parsons contributed \$1,000.00 on October 23, 2015 and Tim Dunn contributed \$5,000.00 on December 14, 2015. *See Exhibit B.* [unrelated matter omitted for brevity].

18. Justice Massengale has maintained an Internet presence. *See Exhibit C* (screenshot of Justice Massengale’s website at www.michaelmassengale.com).

Appellee Texas Right to Life's logo is prominently displayed on the first page of the website. Additionally, Appellee's logo appears on the endorsement page of Justice Massengale's website. *See Exhibit D* (screenshot of the endorsement page at <https://michaelmassengale.squarespace.com>).

19. Justice Massengale has also maintained a Twitter account under the username “@mmassengale.” Attached as **Exhibit E** are screenshots of tweets from Justice Massengale which include a supportive tweet to Michael Q. Sullivan, an acknowledgement of joining with Empower Texans, appearances of Justice Massengale at Texas Right to Life events, endorsements from Texas Right to Life, and Justice Massengale's announcements of endorsements from Empower Texans and Appellee Texas Right to Life. Additionally **Exhibit E** shows that Justice Massengale follows Trey Trainor and Joe Nixon who are both attorneys of record in this case. These Twitter postings show a close connection between Justice Massengale, Appellee Texas Right to Life, and closely related persons and entities. Additionally, **Exhibit F** shows tweets between Justice Massengale and counsel for Appellee, Trey Trainor and Joe Nixon.

20. In this case, the personal interest or bias of Justice Massengale will deprive Appellant of his due-process rights in violation of the Texas and United States Constitutions Rules 18a and 18b of the Texas Rules of Civil Procedure, Rule 16 of

the Texas Rules of Appellate Procedure and Canons 1,2,3, and 4 of the Code of Judicial Conduct.

21. The attached evidence shows that Justice Massengale's impartiality might reasonably be questioned. Tex. R. Civ. P. 18b(b)(1); *Williams v. Viswanathan*, 65 S.W.3d 685, 687 (Tex. App.—Amarillo 2001, order).

22. The attached evidence shows that Justice Massengale's has a personal bias or prejudice toward his campaign contributor and endorser Appellee Texas Right to Life. Tex. R. Civ. P. 18b(b)(2); see *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813, 820-21 (1986). The relationship between Justice Massengale and Appellee and Appellee's affiliates is such that a reasonable person, with knowledge of the circumstances, would harbor doubts as to the impartiality of the trial judge, and that the bias is of such nature and extent that allowing the Justice Massengale to serve would deny the movant's right to receive due process of law.

23. Appellant attaches the Affidavit of Scott M. Tschirhart to this motion to establish facts that are not included in the appellate record, are not known to the Court in its official capacity, and are not within the personal knowledge of the attorney signing this motion. Tex. R. App. P. 10.2.

C. **PRAYER**

WHEREFORE PREMISES CONSIDERED, Appellant Bob Deuell respectfully requests that Justice Massengale voluntarily himself and that another

Justice be assigned to decide the case. In the alternative, if Justice Massengale will not voluntarily recuse himself, that the Court set a hearing on this Motion and that in connection with the hearing, permit the issuance of court process to allow the parties to fully discover the extent of contacts between Justice Massengale, Texas Right to Life, Inc., Michael Q Sullivan, Trey Trainor, Joe Nixon and related parties, including the issuance of court process to obtain records from Twitter. That following any such hearing, this motion be granted and Justice Massengale be ordered recused from any further participation in this matter and for such other and further relief to which Appellant may show himself to be entitled.

SIGNED on this the 3rd day of March, 2016.

Respectfully submitted

DENTON NAVARRO ROCHA BERNAL HYDE & ZECH, P.C.

2500 W. William Cannon Drive, Suite 609

Austin, Texas 78745-5292

(512) 279-6431

(512) 279-6438 (Facsimile)

george.hyde@rampage-aus.com

scott.tschirhart@rampage-aus.com

By:



George E. Hyde

State Bar No. 45006157

Scott M. Tschirhart

State Bar No. 24013655

ATTORNEYS FOR APPELLANT

BOB DEUELL

CERTIFICATE OF CONFERENCE

I hereby certified that on March 2, 2016, I conferred with attorney Nicholas Stepp, counsel for Appellee, about the merits of this motion and he was opposed to this motion.



Scott M. Tschirhart

CERTIFICATE OF COMPLIANCE

In compliance with Tex. R. App. P. 9.4(i)(3), this is to certify that this motion contains 1,723 words, which does not include the caption, signature, certificate of conference, proof of service, certificate of compliance, affidavit and exhibits.



George E. Hyde
Scott M. Tschirhart

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been served upon the below named individuals as indicated, and according to the Texas Rules of Civil Procedure and/or via electronic notification on this the 3rd day of March, 2016:

N. Terry Adams, Jr.
Beirne, Maynard & Parsons, L.L.P.
1300 Post Oak Blvd., Suite 2500
Houston, Texas 77056

via electronic notification
tadams@bmpllp.com

Joseph M. Nixon
Beirne, Maynard & Parsons, L.L.P.
1300 Post Oak Blvd., Suite 2500
Houston, Texas 77056


via electronic notification
jnixon@bmpllp.com

James E. "Trey" Trainor, III
Beirne, Maynard & Parsons, L.L.P.
401 W. 15th Street, Suite 845
Austin, Texas 78701

via electronic notification
ttrainor@bmpllp.com

Nicholas D. Stepp
Beirne, Maynard & Parsons, L.L.P.
401 W. 15th Street, Suite 845
Austin, Texas 78701

via electronic notification
nstepp@bmpllp.com



George E. Hyde
Scott M. Tschirhart

No. 01-15-00617-CV

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FIRST COURT OF APPEALS DISTRICT
HOUSTON, TEXAS

BOB DEUELL,
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Honorable Robert Schaffer, Presiding Judge

AFFIDAVIT OF SCOTT M. TSCHIRHART

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

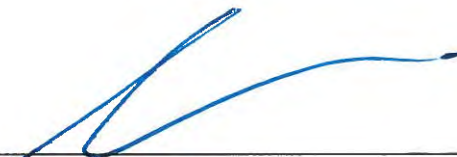
BEFORE ME, the undersigned authority, a Notary Public, on this day personally appeared **Scott M. Tschirhart**, and being by me duly sworn on his oath deposed and said:

My name is Scott M. Tschirhart. I am over the age of eighteen, have never been convicted of a felony or crime of moral turpitude, and am fully competent in all respects to make this affidavit. I am an attorney licensed to practice law in the State of Texas, each of the four Federal Districts in Texas and the Court of Appeals for the Fifth Circuit.

I am familiar with facts stated herein because I serve as the lead attorney representing Appellant Bob Deuell in this action. This motion is accompanied by exhibits which are true and correct copies of the following items of which I have personal knowledge:

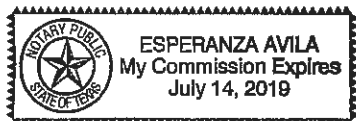
- Exhibit A: 8 day out Campaign Finance Report filed by Justice Massengale;
- Exhibit B: January 2016 Semi-annual Campaign Finance Report for Justice Massengale;
- Exhibit C: Screenshot of Justice Massengale's website;
- Exhibit D: Screenshot of the Endorsement page on Justice Massengale's website;
- Exhibit E: Screenshots of tweets from Justice Massengale to Michael Q. Sullivan; and
- Exhibit F: Screenshots of tweets between Justice Massengale and Trey Trainor and Joe Nixon, counsel for Appellee.

Further, affiant sayeth not.



Scott M. Tschirhart

SUBSCRIBED AND SWORN TO BEFORE ME by the said Scott M. Tschirhart on this 3rd of March, 2016, to certify which witness my hand and official seal.



NOTARY PUBLIC, STATE OF TEXAS

(Affix Notary Seal Above)

JUDICIAL SPECIFIC-PURPOSE COMMITTEE CAMPAIGN FINANCE REPORT

FORM JSPAC
COVER SHEET PG 1

The JSPAC Instruction Guide explains how to complete this form.		1 Filer ID (Ethics Commission Filers) 00080068		2 Total pages filed: 65	
3 COMMITTEE NAME Massengale for Texas Supreme Court				OFFICE USE ONLY Date Received ELECTRONICALLY FILED 02/22/2016 Date Hand-delivered or Date Postmarked Receipt # Amount Date Processed Date Imaged	
4 COMMITTEE ADDRESS <input type="checkbox"/> Change of Address	ADDRESS / PO BOX; APT / SUITE #; CITY; STATE; ZIP CODE 3733-1 Westheimer #652 Houston, TX 77027				
5 CAMPAIGN TREASURER NAME MS / MRS / MR FIRST MI Mr. George	NICKNAME LAST SUFFIX Fibbe				
6 CAMPAIGN TREASURER STREET ADDRESS (Residence or Business)	STREET ADDRESS (NO PO BOX PLEASE); APT / SUITE #; CITY; STATE; ZIP CODE 3733-1 Westheimer #652 Houston, TX 77027				
7 CAMPAIGN TREASURER MAILING ADDRESS <input type="checkbox"/> Change of Address	STREET OR PO BOX; APT / SUITE #; CITY; STATE; ZIP CODE 3733-1 Westheimer #652 Houston, TX 77027				
8 CAMPAIGN TREASURER PHONE	AREA CODE PHONE NUMBER EXTENSION (281) 380-0479				
9 REPORT TYPE	<input type="checkbox"/> January 15 <input type="checkbox"/> 30th day before election <input type="checkbox"/> Exceeded \$500 Limit <input type="checkbox"/> July 15 <input checked="" type="checkbox"/> 8th day before election <input type="checkbox"/> Dissolution (Attach JSPAC-DR) <input type="checkbox"/> Runoff <input type="checkbox"/> 10th day after campaign treasurer termination				
10 PERIOD COVERED	Month Day Year Month Day Year 01/22/2016 THROUGH 02/20/2016				
11 ELECTION	ELECTION DATE Month Day Year 03/01/2016		ELECTION TYPE <input checked="" type="checkbox"/> Primary <input type="checkbox"/> Runoff <input type="checkbox"/> Other <input type="checkbox"/> General <input type="checkbox"/> Special		

GO TO PAGE 2

FORM JSPAC
COVER SHEET PG 2

16 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code.

Mr. George Fibbe

Signature of Campaign Treasurer

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20_____, to certify which, witness my hand and seal of office.

Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath

SUBTOTALS - JSPAC

FORM JSPAC
COVER SHEET PG 3
3 of 65

17 COMMITTEE NAME Massengale for Texas Supreme Court		18 Filer ID 00080068	(Ethics Commission Filers)
19 SCHEDULE SUBTOTALS NAME OF SCHEDULE			SUBTOTAL AMOUNT
1.	<input checked="" type="checkbox"/> SCHEDULE A(J)1: MONETARY POLITICAL CONTRIBUTIONS (JUDICIAL)	\$	151,400.00
2.	<input checked="" type="checkbox"/> SCHEDULE A2: NON-MONETARY (IN-KIND) POLITICAL CONTRIBUTIONS	\$	2,150.00
3.	<input checked="" type="checkbox"/> SCHEDULE B(J): PLEDGED CONTRIBUTIONS (JUDICIAL)	\$	0.00
4.	<input checked="" type="checkbox"/> SCHEDULE E(J): LOANS (JUDICIAL)	\$	0.00
5.	<input checked="" type="checkbox"/> SCHEDULE F1: POLITICAL EXPENDITURES FROM POLITICAL CONTRIBUTIONS	\$	482,013.44
6.	<input checked="" type="checkbox"/> SCHEDULE F2: UNPAID INCURRED OBLIGATIONS	\$	769.41
7.	<input type="checkbox"/> SCHEDULE F3: PURCHASE OF INVESTMENTS FROM POLITICAL CONTRIBUTIONS	\$	
8.	<input checked="" type="checkbox"/> SCHEDULE F4: EXPENDITURES MADE BY CREDIT CARD	\$	0.00
9.	<input type="checkbox"/> SCHEDULE H: PAYMENT FROM POLITICAL CONTRIBUTIONS TO A BUSINESS OF C/OH	\$	
10.	<input type="checkbox"/> SCHEDULE I: NON-POLITICAL EXPENDITURES FROM POLITICAL CONTRIBUTIONS	\$	
11.	<input type="checkbox"/> SCHEDULE K: INTEREST, CREDITS, GAINS, REFUNDS, AND CONTRIBUTIONS RETURNED TO FILER	\$	

MONETARY POLITICAL CONTRIBUTIONS

SCHEDULE A(J)1

The Instruction Guide explains how to complete this form.

1 Total pages Schedule A(J)1:
Sch: 12/43 Rpt: 15/65

2 FILER NAME

Massengale for Texas Supreme Court

3 Filer ID (Ethics Commission Filers)
00080068

4 Date
01/28/2016

5 Full name of contributor ☐ out-of-state PAC (ID#: _____)
Doornbos, Billy

7 Amount of Contribution (\$)
\$50.00

6 Contributor address; City; State; Zip Code

Nederland, TX 77627

8 Contributor's Principal Occupation
Administrator

9 Contributor's Job Title
Administrator

10 Contributor's employer/law firm
C. Doornbos Inc.

11 Law firm of contributor's spouse (if any)

12 If contributor is a child, law firm of parent(s) (if any)

Date
02/16/2016

Full name of contributor ☐ out-of-state PAC (ID#: _____)
Empower Texans PAC

Amount of Contribution (\$)
\$25,000.00

Contributor address; City; State; Zip Code

Austin, TX 78720

Contributor's Principal Occupation

Contributor's Job Title

Contributor's employer/law firm

Law firm of contributor's spouse (if any)

If contributor is a child, law firm of parent(s) (if any)

Date
02/12/2016

Full name of contributor ☐ out-of-state PAC (ID#: _____)
Fields, Rebecca

Amount of Contribution (\$)
\$300.00

Contributor address; City; State; Zip Code

Sugar Land, TX 77479

Contributor's Principal Occupation
Investor

Contributor's Job Title
Owner

Contributor's employer/law firm
Imperial Home Buyers LLC

Law firm of contributor's spouse (if any)

If contributor is a child, law firm of parent(s) (if any)

MONETARY POLITICAL CONTRIBUTIONS

SCHEDULE A(J)1

The Instruction Guide explains how to complete this form.		1 Total pages Schedule A(J)1: Sch: 16/43 Rpt: 19/65
2 FILER NAME Massengale for Texas Supreme Court		3 Filer ID (Ethics Commission Filers) 00080068
4 Date 02/08/2016	5 Full name of contributor <input type="checkbox"/> out-of-state PAC (ID#: _____) Graham, Elizabeth 6 Contributor address; City; State; Zip Code Houston, TX 77036	7 Amount of Contribution (\$) \$1,000.00
8 Contributor's Principal Occupation Non-Profit		9 Contributor's Job Title Director
10 Contributor's employer/law firm TX RTL		11 Law firm of contributor's spouse (if any)
12 If contributor is a child, law firm of parent(s) (if any)		
Date 02/11/2016	Full name of contributor <input type="checkbox"/> out-of-state PAC (ID#: _____) Groves, Lee Contributor address; City; State; Zip Code Farmers Branch, TX 75234	Amount of Contribution (\$) \$5,000.00
Contributor's Principal Occupation Business Owner		Contributor's Job Title President
Contributor's employer/law firm Groves Electrical Service		Law firm of contributor's spouse (if any)
If contributor is a child, law firm of parent(s) (if any)		
Date 02/12/2016	Full name of contributor <input type="checkbox"/> out-of-state PAC (ID#: _____) Gustafson, James Contributor address; City; State; Zip Code Houston, TX 77024	Amount of Contribution (\$) \$200.00
Contributor's Principal Occupation Real Estate		Contributor's Job Title Realtor
Contributor's employer/law firm The Gustafson Group		Law firm of contributor's spouse (if any)
If contributor is a child, law firm of parent(s) (if any)		

MONETARY POLITICAL CONTRIBUTIONS

SCHEDULE A(J)1

The Instruction Guide explains how to complete this form.

1 Total pages Schedule A(J)1:
Sch: 39/43 Rpt: 42/65

2 FILER NAME
Massengale for Texas Supreme Court

3 Filer ID (Ethics Commission Filers)
00080068

4 Date
01/28/2016

5 Full name of contributor ☐ out-of-state PAC (ID#: _____)
Taylor, Catherine

7 Amount of Contribution (\$)
\$1,000.00

6 Contributor address; City; State; Zip Code

Dallas, TX 75225

8 Contributor's Principal Occupation
Investments

9 Contributor's Job Title
Investor

10 Contributor's employer/law firm
Self Employed

11 Law firm of contributor's spouse (if any)

12 If contributor is a child, law firm of parent(s) (if any)

Date
01/28/2016

Full name of contributor ☐ out-of-state PAC (ID#: _____)
Texas Home School Coalition PAC

Amount of Contribution (\$)
\$5,000.00

Contributor address; City; State; Zip Code

Lubbock, TX 79493

Contributor's Principal Occupation

Contributor's Job Title

Contributor's employer/law firm

Law firm of contributor's spouse (if any)

If contributor is a child, law firm of parent(s) (if any)

Date
02/15/2016

Full name of contributor ☐ out-of-state PAC (ID#: _____)
Texas Right to Life PAC

Amount of Contribution (\$)
\$5,000.00

Contributor address; City; State; Zip Code

Houston, TX 77036

Contributor's Principal Occupation

Contributor's Job Title

Contributor's employer/law firm

Law firm of contributor's spouse (if any)

If contributor is a child, law firm of parent(s) (if any)

CORRECTION/AMENDMENT AFFIDAVIT FOR POLITICAL COMMITTEE

FORM JSCOR-PAC

1 Filer ID (Ethics Commission Filers) 00080068		2 Total pages filed: 138		OFFICE USE ONLY	
3 COMMITTEE NAME Massengale for Texas Supreme Court				Date Received ELECTRONICALLY FILED 02/08/2016	
4 TREASURER NAME Fibbe, George (Mr.)				Date Hand-delivered or Date Postmarked	
5 ORIGINAL REPORT TYPE		<input checked="" type="checkbox"/> January 15 <input type="checkbox"/> July 15 <input type="checkbox"/> 30th day before election <input type="checkbox"/> 8th day before election		<input type="checkbox"/> Runoff <input type="checkbox"/> 10th day after campaign treasurer resignation <input type="checkbox"/> Dissolution report <input type="checkbox"/> Other (specify) _____	
6 ORIGINAL PERIOD COVERED		Month Day Year 07/01/2015 THROUGH 12/31/2015		Receipt # Amount Date Processed Date Imaged	

7 EXPLANATION OF CORRECTION

An invoice submitted as back-up for the in-kind contribution was relied upon in the preparation of the report originally filed. The invoice did not reflect the name of the actual contributor, a law firm, and instead reflected the name of an individual who works for the law firm. This clerical error was not discovered before the eighth day after filing the original report. This error did not cause a violation of the Judicial Campaign Fairness Act - including the related contributions limits for law firms and person affiliated with law firm set out therein. This report was amended at the most immediate time after discovery of the issue. Other than updating the name of the contributor for the 10/7/2015 in-kind contribution, no other changes have been made to the report. In the event the Commission assesses a late-filing penalty, we respectfully request the Commission waiver or reduce the fine before final disposition.

8 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that this corrected report is true and correct.

Check the box next to any and all applicable statements:

- ☒ **Semiannual reports:** I swear or affirm, that the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.
- ☒ **Other reports:** I swear, or affirm, that I am filing this corrected report not later than the 14th business day after the date I learned that the report as originally filed is inaccurate or incomplete. I swear, or affirm, that any error or omission in the report as originally filed was made in good faith.

Mr. George Fibbe

Signature of Campaign Treasurer

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20_____, to certify which, witness my hand and seal of office.

Signature of officer administering oath

Printed name of officer administering oath

Title of officer administering oath

**Remember To Attach Any Part Of The Campaign Finance Report Form
Needed To Report And Explain Corrections**

JUDICIAL SPECIFIC-PURPOSE COMMITTEE CAMPAIGN FINANCE REPORT

FORM JSPAC
COVER SHEET PG 1

The JSPAC Instruction Guide explains how to complete this form.		1 Filer ID (Ethics Commission Filers) 00080068		2 Total pages filed: 138	
3 COMMITTEE NAME Massengale for Texas Supreme Court				OFFICE USE ONLY Date Received ELECTRONICALLY FILED 02/08/2016 Date Hand-delivered or Date Postmarked Receipt # Amount Date Processed Date Imaged	
4 COMMITTEE ADDRESS <input type="checkbox"/> Change of Address		ADDRESS / PO BOX; APT / SUITE #; CITY; STATE; ZIP CODE 3733-1 Westheimer #652 Houston, TX 77027			
5 CAMPAIGN TREASURER NAME MS / MRS / MR FIRST MI Mr. George		NICKNAME LAST SUFFIX Fibbe			
6 CAMPAIGN TREASURER STREET ADDRESS (Residence or Business)		STREET ADDRESS (NO PO BOX PLEASE); APT / SUITE #; CITY; STATE; ZIP CODE 3733-1 Westheimer #652 Houston, TX 77027			
7 CAMPAIGN TREASURER MAILING ADDRESS <input type="checkbox"/> Change of Address		STREET OR PO BOX; APT / SUITE #; CITY; STATE; ZIP CODE 3733-1 Westheimer #652 Houston, TX 77027			
8 CAMPAIGN TREASURER PHONE		AREA CODE PHONE NUMBER EXTENSION (281) 380-0479			
9 REPORT TYPE		<input checked="" type="checkbox"/> January 15 <input type="checkbox"/> July 15 <input type="checkbox"/> 30th day before election <input type="checkbox"/> 8th day before election <input type="checkbox"/> Runoff <input type="checkbox"/> Exceeded \$500 Limit <input type="checkbox"/> Dissolution (Attach JSPAC-DR) <input type="checkbox"/> 10th day after campaign treasurer termination			
10 PERIOD COVERED		Month Day Year 07/01/2015 THROUGH 12/31/2015			
11 ELECTION		ELECTION DATE Month Day Year 03/01/2016 ELECTION TYPE <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Runoff <input type="checkbox"/> Special <input type="checkbox"/> Other			

GO TO PAGE 2

FORM JSPAC
COVER SHEET PG 2

16 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code.

Mr. George Fibbe

Signature of Campaign Treasurer

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20_____, to certify which, witness my hand and seal of office.

Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath

SUBTOTALS - JSPAC

FORM JSPAC
COVER SHEET PG 3
4 of 138

17 COMMITTEE NAME Massengale for Texas Supreme Court		18 Filer ID 00080068	(Ethics Commission Filers)
19 SCHEDULE SUBTOTALS NAME OF SCHEDULE			SUBTOTAL AMOUNT
1.	<input checked="" type="checkbox"/> SCHEDULE A(J)1: MONETARY POLITICAL CONTRIBUTIONS (JUDICIAL)	\$	345,295.97
2.	<input checked="" type="checkbox"/> SCHEDULE A2: NON-MONETARY (IN-KIND) POLITICAL CONTRIBUTIONS	\$	8,175.39
3.	<input type="checkbox"/> SCHEDULE B(J): PLEDGED CONTRIBUTIONS (JUDICIAL)	\$	
4.	<input checked="" type="checkbox"/> SCHEDULE E(J): LOANS (JUDICIAL)	\$	100,000.00
5.	<input checked="" type="checkbox"/> SCHEDULE F1: POLITICAL EXPENDITURES FROM POLITICAL CONTRIBUTIONS	\$	58,988.80
6.	<input checked="" type="checkbox"/> SCHEDULE F2: UNPAID INCURRED OBLIGATIONS	\$	2,607.50
7.	<input type="checkbox"/> SCHEDULE F3: PURCHASE OF INVESTMENTS FROM POLITICAL CONTRIBUTIONS	\$	
8.	<input type="checkbox"/> SCHEDULE F4: EXPENDITURES MADE BY CREDIT CARD	\$	
9.	<input type="checkbox"/> SCHEDULE H: PAYMENT FROM POLITICAL CONTRIBUTIONS TO A BUSINESS OF C/OH	\$	
10.	<input type="checkbox"/> SCHEDULE I: NON-POLITICAL EXPENDITURES FROM POLITICAL CONTRIBUTIONS	\$	
11.	<input checked="" type="checkbox"/> SCHEDULE K: INTEREST, CREDITS, GAINS, REFUNDS, AND CONTRIBUTIONS RETURNED TO FILER	\$	1,050.00

MONETARY POLITICAL CONTRIBUTIONS

SCHEDULE A(J)1

The Instruction Guide explains how to complete this form.		1 Total pages Schedule A(J)1: Sch: 7/106 Rpt: 11/138
2 FILER NAME Massengale for Texas Supreme Court		3 Filer ID (Ethics Commission Filers) 00080068
4 Date 12/29/2015	5 Full name of contributor <input type="checkbox"/> out-of-state PAC (ID#: _____) Beecherl, Robert 6 Contributor address; City; State; Zip Code Midland, TX 79702	7 Amount of Contribution (\$) \$1,000.00
8 Contributor's Principal Occupation Investments		9 Contributor's Job Title Investor
10 Contributor's employer/law firm Self Employed		11 Law firm of contributor's spouse (if any)
12 If contributor is a child, law firm of parent(s) (if any)		
Date 10/23/2015	Full name of contributor <input type="checkbox"/> out-of-state PAC (ID#: _____) Beirne, Marty Contributor address; City; State; Zip Code Houston, TX 77056	Amount of Contribution (\$) \$1,000.00
Contributor's Principal Occupation Attorney		Contributor's Job Title Founding Partner
Contributor's employer/law firm Beirne Maynard and Parsons LLP		Law firm of contributor's spouse (if any)
If contributor is a child, law firm of parent(s) (if any)		
Date 09/13/2015	Full name of contributor <input type="checkbox"/> out-of-state PAC (ID#: _____) Bennett, Judith Contributor address; City; State; Zip Code Beaumont, TX 77706	Amount of Contribution (\$) \$250.00
Contributor's Principal Occupation School Counselor - Retired		Contributor's Job Title Retired
Contributor's employer/law firm Monsignor Kelly Catholic High School		Law firm of contributor's spouse (if any)
If contributor is a child, law firm of parent(s) (if any)		

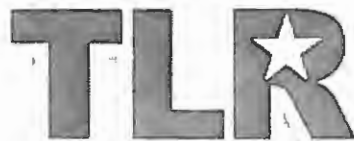
MONETARY POLITICAL CONTRIBUTIONS

SCHEDULE A(J)1

The Instruction Guide explains how to complete this form.		1 Total pages Schedule A(J)1: Sch: 23/106 Rpt: 27/138
2 FILER NAME Massengale for Texas Supreme Court		3 Filer ID (Ethics Commission Filers) 00080068
4 Date 10/28/2015	5 Full name of contributor <input type="checkbox"/> out-of-state PAC (ID#: _____) DuPont, Cedric 6 Contributor address; City; State; Zip Code Austin, TX 78759	7 Amount of Contribution (\$) \$2,000.00
8 Contributor's Principal Occupation Anesthesiologist		9 Contributor's Job Title Physician
10 Contributor's employer/law firm Austin Anesthesiology Group		11 Law firm of contributor's spouse (if any)
12 If contributor is a child, law firm of parent(s) (if any)		
Date 10/20/2015	Full name of contributor <input type="checkbox"/> out-of-state PAC (ID#: _____) Duncan, John Contributor address; City; State; Zip Code Dallas, TX 75225	Amount of Contribution (\$) \$500.00
Contributor's Principal Occupation Information Requested Using Best Efforts		Contributor's Job Title Information Requested Using Best Efforts
Contributor's employer/law firm Information Requested Using Best Efforts		Law firm of contributor's spouse (if any)
If contributor is a child, law firm of parent(s) (if any)		
Date 12/14/2015	Full name of contributor <input type="checkbox"/> out-of-state PAC (ID#: _____) Dunn, Tim Contributor address; City; State; Zip Code Midland, TX 79701	Amount of Contribution (\$) \$5,000.00
Contributor's Principal Occupation Oil and Gas		Contributor's Job Title CEO
Contributor's employer/law firm CrownQuest		Law firm of contributor's spouse (if any)
If contributor is a child, law firm of parent(s) (if any)		

MICHAEL MASSENGALE*for TEXAS SUPREME COURT***JUSTICE MICHAEL MASSENGALE: A
CONSTITUTIONAL CONSERVATIVE**

Justice Michael Massengale currently sits on the First Court of Appeals. He is the only candidate in this race board-certified in civil appellate law. Before joining the court, he was a partner in the trial department at Baker Botts L.L.P. where he specialized in commercial litigation. He is a former Harris County Republican Party precinct chairman, and he served for four years as president of the Houston Lawyers Chapter of the Federalist Society, the nation's preeminent association of conservative lawyers. His wife, Lindsey Harris Massengale, is a Beaumont native and a board-certified ophthalmologist specializing in diseases of the vitreous and retina. Together they live and attend church in Houston, TX.

ENDORSEMENTS**TEXANS *for* LAWSUIT REFORM****POLITICAL ACTION COMMITTEE**



MONTGOMERY COUNTY



TEA PARTY



Exhibit C

VIEW ALL ENDORSEMENTS HERE
([HTTPS://MICHAELMASSENGALE.SQUARESPACE.COM](https://michaelmassengale.squarespace.com))

ABOUT MICHAEL MASSENGALE



Michael Massengale was appointed to the First Court of Appeals by Governor Rick Perry on June 15, 2009. He was elected in 2010 and re-elected to a full term in 2012.



Justice Massengale is board certified in civil appellate law by the Texas Board of Legal Specialization. Before joining the court, he was a partner in the trial department at Baker Botts L.L.P. where he specialized in commercial litigation involving corporate mergers and acquisitions, fraudulent transfers, securities fraud, and antitrust. He has also tried a number of personal injury and property damage lawsuits to jury verdicts.



He graduated with honors from The University of Texas School of Law. He earned the Outstanding Editor Award from the Texas Law Review, having published his student note, served as Book Review Editor, and edited the ninth edition of Texas Rules of Form. After law school, he clerked for Judge Harold R. DeMoss, Jr. of the United States Court of Appeals for the Fifth Circuit. He is a graduate of Dartmouth College and an Eagle Scout.



Among other civic and professional activities, Justice Massengale serves as a commissioner on the Permanent Judicial Commission For Children, Youth & Families where he chairs the Training Committee and oversees the Commission's judicial and attorney training programs. He also curates a blog on the history of the Texas Constitution, at www.texconst.wordpress.com. His wife, Lindsey, is a board-certified ophthalmologist specializing in diseases of the vitreous and retina.

**BE PART
OF OUR
FUTURE!**

Exhibit C

CONTACT

Michael Massengale Campaign.

Your Name *

Your Email *

Your Phone *

Your Message *

SEND MESSAGE

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([https://www.facebook.com/pages/Justice-Michael-](https://www.facebook.com/pages/Justice-Michael-Massengale/214383198190?ref=twi)

Michael-



[Massengale/214383198190?](https://www.facebook.com/pages/Justice-Michael-Massengale/214383198190?ref=twi)

(<https://twitter.com/mmassengale>)

Political ad paid by Justice Michael Massengale Campaign, in compliance with the voluntary limits of the Judicial Campaign Fairness Act.

MAIL CONTRIBUTIONS: If you would like to make a contribution by mail, please make checks out to 'Massengale for Texas Supreme Court' and send them to Massengale for Texas Supreme Court, c/o Michelle Lupton -- 16238 RR 620N, Suite F255, Austin, TX 78717

JUSTICE MICHAEL MASSENGALE
ENDORSEMENTS (1)

JUSTICE MICHAEL
Massengale
FOR TEXAS SUPREME COURT, PLACE 3 ★ ★ ★



ENDORSEMENTS

TEXANS *for* LAWSUIT REFORM



POLITICAL ACTION COMMITTEE



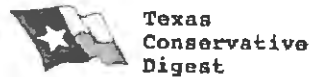
MONTGOMERY COUNTY



Exhibit D



Conservative Voters



STATEWIDE CONSERVATIVE LEADERS:

Rick Perry - Former Governor of Texas

Cathie Adams - President - Texas Eagle Forum & Former Texas GOP Chairman*

George Strake - Former Texas Secretary of State & Former Texas GOP Chairman*

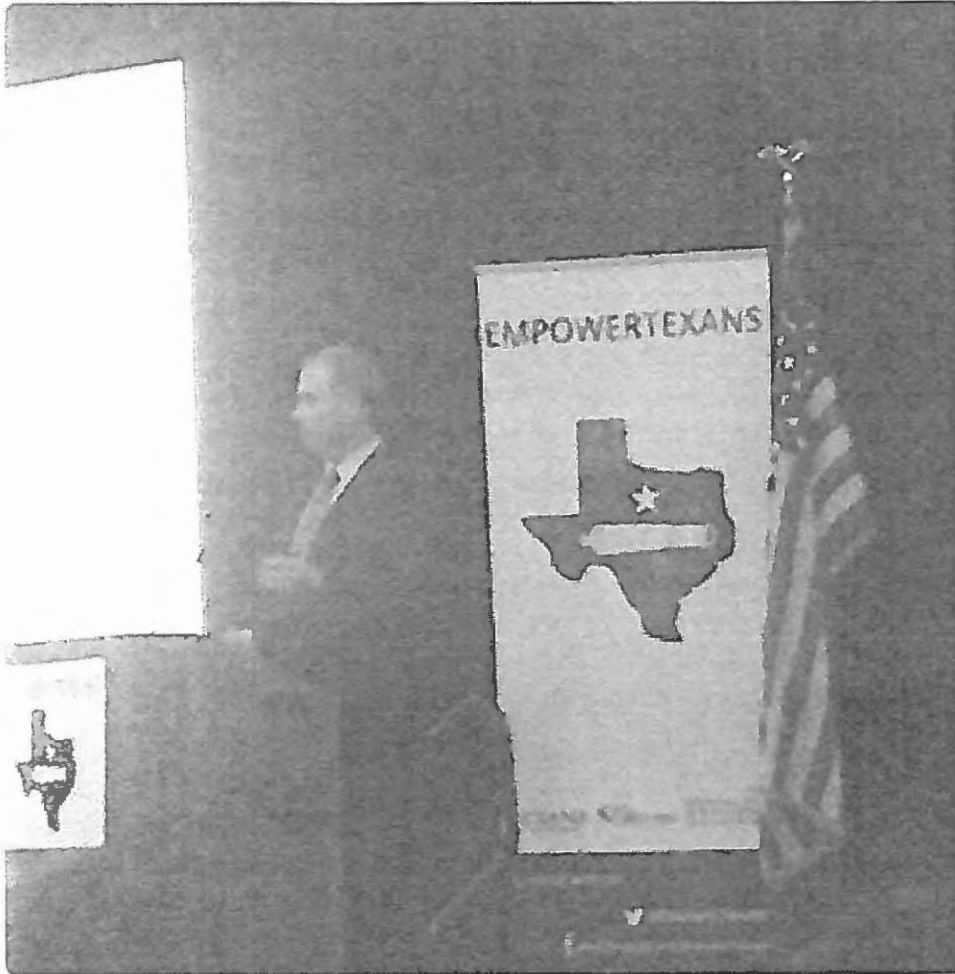
Kelly Shackelford - President & CEO - Liberty Institute*

David Barton - President - **Exhibit D**



Michael Massengale · mmasengale · June 2015

.MQSullivan "You never take flak unless you're over the target." @EmpowerTexans #CLG15





Michael Massengale

· June 2013

Thrilled to join great conservative leaders at
#CLG15 @EmpowerTexans @kwteaparty
@KWTP @txelectionlaw @PrattonTexas



Jordan Berry



Jordan Berry · jordanberry · 2 Oct 2015

Bill_Zedler and Justice #MMassengale at TXRightToLife gala in Houston. #COL2015



Photo credit: Michael Massengale

Texas Right to Life · TXRightToLife · 2h

Justice #mmassengale is the conservative choice for SCOTX, Place 3. Learn more: txr.tl/Y8 #LifeFirst



“ Voters in Texas have repeatedly shown their preference to have conservative judges at the court. We know Texans want judges who will be faithful to the laws that are enacted by our legislature, the people we elect and send to Austin. ”

-Michael Massengale

TexasRightToLifePAC.com #LifeFirst
Paid ad paid for by Texas Right to Life PAC



Tweets Tweets & replies Photos & videos



Michael Massengale

Honored to have the endorsement of EmpowerTexans in this race!
Do you want to elect a constitutional conservative? Join them 3/1!
txlege



Michael Massengale

Did you hear that TXRightToLife has
endorsed me for scotx? Join them and
VoteMassengale on Tuesday! txlege



Michael Massengale
@m123456789

TWEETS
703

FOLLOWING
542

FOLLOWERS
644

LIKES
604



Harris County OHSEM
@HCOHSEM

Your official source for emergency
management information in Harris
County.



Trey Trainor
@tsectionlaw

Husband, father of six. Catholic,
conservative. Advise elected officials,
political organizations, and candidates
on state and federal election regulations.



HCSOTexas
@HCSOTexas

We are the largest sheriff's office
and 11th largest in the nation. We
and protect Harris County.



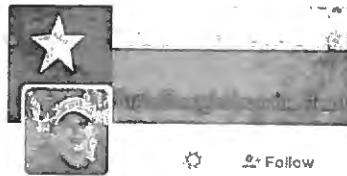
Michael Massengale
@mmassengale

TWEETS
703

FOLLOWING
542

FOLLOWERS
644

LIKES
604



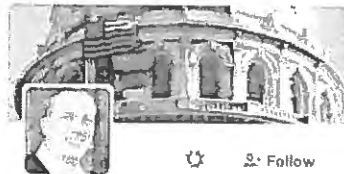
Colonel

@aurakidout

Woodlands Township Director. Blogger. Networker. Christian. Lived in France = socialism sucks! #GoNavy #GigErm #TXCHI.



Follow



Chip Roy

@chiproytx

1st Asst AG Tx, @KenPaxtonTx. Fmr: Chief Staff @TedCruz, Adviser @GovernorPerry & @JohnCantyn. SAUSA. @UVA & @UTexasLaw...



Follow



Empower Texans

@EmpowerTexans

Official Twitter Account for Emp Texans / Texans for Fiscal Resp. Promoting liberty and fiscal resp in the Lone Star State.



Follow



Joe Nixon

@JMNLawyer

Former member of the Texas House of Representatives (12 years). Served as Chairman of the House Committee on Civil Practices.



Follow



TLR

@lawsuitreform

Texans for Lawsuit Reform is a volunteer-led organization working to maintain a fair and balanced civil justice system.



Follow



Statesman Courts

@AustinCourts

A look at local justice from inside the courtroom - Official feed for courts coverage from the American Statesman.



Follow

1.

1. **Trey Trainor** 10/15/19

Just voted early for

This is to certify that

JAMES E. TRAINOR

(Name of Voter)

Election Precinct No. 236 of Hays County

has voted in the primary election of the Republican

Party

Date

[Signature]

*Election Judge

~~County Clerk~~

*Cross Out One



2. **Trey Trainor** (@electionlaw 5 Dec 2015) [@electionlaw](#) [REDACTED]

Great to see [REDACTED] candidate, justice [REDACTED] at [REDACTED]

[REDACTED]

3.
1.  **Michael Massengale** (@mmassengale 5 Dec 2015) [@mmassengale](#) [REDACTED]

Thrilled to join great conservative leaders at



2. I love this

4. In reply to Trey Trainor



Jordan Berry · [@jordandberry](#) · 4 Dec 2015

it was simple, I just answered the door after the FedEx guy knocked.

5 In reply to Jordan Berry



Trey Trainor @txelectionlaw · 4 Dec 2015

what's a guy gotta do to get one of those?

6. **Trey Trainor** @txelectionlaw · 16 Nov 2015 (Wed) · 11

Join here in Austin tomorrow

7.



1. **Trey Trainor** @electionlaw 23 Oct 2015



MT

Justice

will be a strong Pro-Life voice in TX Supreme Court!

Texas Right to Life Political Action Committee
proudly endorses

Justice
Michael Massengale
for
Texas Supreme Court, Place 3



Early voting:
February 16 - 26, 2016
Election Day: March 1, 2016

TEXAS RIGHT TO LIFE
Political Action Committee
TexasRightToLife.com
#ProLifeStrong

MichaelMassengale.com



8. **Trey Trainor** (@electionlaw · 10 Sep 2015/going) · [2]

Great to see @electionlaw at @SCOTX Luncheon today.

User Actions

Follow



Trey Trainor @electionlaw

Attacks on Massengale Assume Ignorance of Voters | Empower TexansSM empowertexans.com/election/attacks ...
via [@empowertexans](https://twitter.com/empowertexans) [#txlege](https://twitter.com/txlege) [#SCOTX](https://twitter.com/SCOTX)

- LIKE1



8:01 AM - 28 Feb 2016

Grey (former Retweeted)



Texas Values Action @TxValuesAction Feb 25

We proudly endorse : [@mmassengale](#) for Texas Supreme Court Justice, Place 3!
txvaluesaction.org/texas-values-a ... [@txlege](#)



**PROUDLY
ENDORSE**



MICHAEL MASSEN

for Texas Supreme Court, Plaintiff

Troy Trainer Retweeted



Michael Massengale [mmassengale](#)  

Thank you [@TXRightToLife](#), [@EmpowerTexans](#), [@thsc](#), [@timthsc](#), [@TxValuesAction](#), and [@jonathansaenzTX](#) for your endorsements! [SCOTX](#) [FE](#)

1 In reply to Michael Massengale



Colonel Alain Kollault Feb 26

You earned it. Thank you!!

-

--

-

-



2. **Michael Massengale** mmassengale Feb 26

Thank you , , , and for your
endorsements!